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No. 79/175

October 11, 1979

TO COUNTY ASSESSORS:

LIST OF TRANSFERS (1979-80)

Here is another in the series of letters concerning implementation of Article XIII A of the Constitution. These examples of various types of ownership transfers supersede, for the 1979-80 assessment year and thereafter, the material contained in assessors' letter 79/12. This listing incorporates the provisions of Chapter 242 (Assembly Bill 1488) and Chapter 1161 (Assembly Bill 1019) of the Statutes of 1979, and should help to illustrate the new laws regarding ownership change.

This material identifies the action required (whether or not to reappraise) when sample transfer is encountered, cites the appropriate Revenue and Taxation Code Section and/or Property Tax Rule, and includes pertinent clarifying remarks. While this compilation is by no means an all-inclusive list of the types of transfers you will see, we hope it will serve as a general guideline for you and your staff as you process and determine how to handle various transfers.

If you have any questions regarding this, please contact Gene Palmer or Bob Reinhard of our staff. Their number is (916) 445-4982.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:sk
Enclosure

<u>TYPE OF TRANSFER</u>	<u>ACTION REQUIRED</u>	<u>REMARKS - R&T CODE SECTION</u>
<u>Possessory Interest</u>		
1. Creation, renewal, sublease, or assignment of a possessory interest.	Reappraisal	Ownership change occurs regardless of length of term. R&T Code Section: 61(b) Board Rule: 462(d)
<u>Leases</u>		
2. Creation of a leasehold interest in taxable real property for a term of 35 years or more.	Reappraisal	Reappraisal of full fee (leasehold and leased fee); term includes renewal option. R&T Code Section: 61(c)(1) Board Rule: 462(e)(1)
3. Leasehold interest that had an <u>original</u> term of 35 years or more transfers or reverts to lessor.	Reappraisal	Reappraisal of fee; term includes renewal options. R&T Code Section: 61(c)(1) Board Rule: 462(e)(1)
4. Transfer of a leasehold interest with a <u>remaining</u> term in excess of 35 years.	Reappraisal	Reappraisal of fee; term includes renewal options. R&T Code Section: 61(c)(1) Board Rule: 462(e)(1)
5. Transfer (other than termination) of a leasehold interest with a <u>remaining</u> term of less than 35 years, to someone other than lessor.	No Reappraisal	Term includes renewal options. R&T Code Section: 61(c) Board Rule: 462(e)(2)
6. Transfer of a lessor's interest in real property subject to a lease with a <u>remaining</u> term of less than 35 years.	Reappraisal	Reappraisal of fee; term includes renewal options. R&T Code Section: 61(c)(2) Board Rule: 462(e)(3)
7. Transfer of a lessor's interest in real property subject to a lease with a <u>remaining</u> term of 35 years or more.	No Reappraisal	Includes transfer to lessee; term includes renewal options. R&T Code Section: 62(g) Board Rule: 462(e)

Mineral Rights

8. Creation, renewal, sublease, assignment, or other transfer of right to produce or extract oil, gas, or other minerals.

Reappraisal of
right transferred

Property other than mineral rights not reappraised. Term "for so long as they may be produced in paying quantities."
R&T Code Section: 61(a)
Board Rule: 468, 469

9. Transfer of full fee title in the land from one person to another.

Reappraisal of the
interest transferred

Board Rule: 462(a)
Except as excluded below or if a total of less than 5 percent undivided interest transfers during an assessment year.
R&T Code Section: 65(b)
Board Rule: 462(b)(6)

Condominiums and Cooperatives

10. Transfer of a unit in a complex with common areas or facilities (i.e., housing co-op, condominium, community apartment project, shopping center, etc.).

Reappraisal of the
the unit transferred
and of appurtenant
common area

Increased values are not to be prorated by the owner to the other units.
R&T Code Section: 61(h) and 65(c)
Board Rule: 462(a)

11. Transfer of stock in a housing co-op with possessory right in a specific unit.

Reappraise

Reappraise the unit transferred and any common area appurtenant.
R&T Code Section: 61(h) and 65(c)
Board Rule: 462(a) and 462(j)(1)(A)
See Section 62(i) and Board Rule 462(j)(3) for exclusions.

Increased values are not to be prorated by the owner to the other units.

Partnerships

12. Transfer of real property from a partnership to a partner.

Reappraise

Property transfers from one entity (the partnership) to another entity (the partner).
R&T Code Section: 61(i)
Board Rule: 462(i)

13. Transfer of real property from a partnership of A and B to A and B as tenants in common.

Reappraisal

R&T Code Section: 61(i)
Board Rule: 462(i)

Section 62(a), Board Rule 462(b)(1) does not apply in this situation because partnership is "legal entity" separate from the partners.

14. A and B are partners in the A and B partnership which is a continuing partnership. C is added as a partner.

No Reappraisal

R&T Code Section: 64(a)
Board Rule: 462(i)

15. Changing the name of the A and B partnership above to the A, B, C partnership.

No Reappraisal

Board Rule: 462 (2nd paragraph)

16. X and Y are partners in the X and Y partnership. Z is added as a partner and the addition creates a new entity.

Reappraisal

Transfer is from one entity to another.
R&T Code Section: 61(i)
Board Rule: 462(i)

Corporations

17. Corporation A transfers property to unrelated Corporation B.

Reappraisal

Transfer is from one entity to another.
R&T Code Section: 61(i)
Board Rule: 462 (2nd paragraph) and 462(a)

18. Transfers among affiliated groups (and nontaxable corporate reorganization under Internal Revenue Code Section 368).

No Reappraisal

(See definition of "affiliated")
R&T Code Section: 64(b)
Board Rule: 462(j)(2)

19. Person or "legal entity" obtains control of corporation.

Reappraisal

Control: Purchase sufficient stock to give more than 50 percent of voting stock.
R&T Code Section: 64(c) and 25105
Board Rule: 462(j)(1)(B)

20. One corporation obtaining control of affiliated corporation.

No Reappraisal

(See definition of "affiliated")
R&T Code Section: 64(b)
Board Rule: 462(j)(2)

Trusts (Items 22-28 are Irrevocable Trusts)

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| 21. Transfer of property to a revocable trust. | No Reappraisal | R&T Code Section: 62(d)(2)
Board Rule: 462(h)(1)(B)

No reappraisal until trust becomes irrevocable.
R&T Code Section: 61(g)
Board Rule: 462(h)(3)(A) |
| 22. Transfer of property from person A to person C as trustee naming persons A and B as beneficiaries. | No reappraisal as long as A remains one of the present beneficiaries | R&T Code Section: 62(d)(1)
Board Rule: 462(h)(1)(a)

Reappraise per Section 61(f), Board Rule 462(h)(2) and 462(h)(3) |
| 23. Transfer of property from person A to a trust for the benefit of person B for a term of 12 years reversion to A. | No reappraisal at creation or termination | The beneficial interest of other must <u>exceed</u> 12 years to be a change in ownership. ("Clifford Trust")
R&T Code Section: 62(d)
Board Rule: 462(h)(1)(C) and 462(h)(2)(A) |
| 24. Transfer of property from person A to person C as trustee naming person B as sole beneficiary. | Reappraisal of interest transferred to B | R&T Code Section: 61(g)
Board Rule: 462(h)(1)

Except when B is spouse of A.
R&T Code Section: 63(a)
Board Rule: 462(h)(1)(A), 462(h)(1)(D), and 462(k)(1) |
| 25. Person A as beneficiary of a trust owning real property assigns his beneficial interest to person B. | Reappraisal if a present beneficial interest transfers | R&T Code Section: 60
Board Rule: 462(h)(3)(B)

Except when beneficial interest does not exceed 12 years and property reverts to trustor or when B is spouse of A.
R&T Code Section: 62(d) and 63
Board Rule: 462(h)(1)(C) and 462(k) |
| | No reappraisal if a future beneficial interest transfers | R&T Code Section: 60
Board Rule: 462 (2nd paragraph)
Reappraise when B receives a present interest, unless interspousal.
R&T Code Section: 63
Board Rule: 462(k) |

26. Transfer of property from person A to person A as trustee naming person A as sole beneficiary.

No Reappraisal

There is no transfer of a present interest or beneficial use. This does not qualify as a trust under California law.

R&T Code Section: 60

Board Rule: 462 (2nd paragraph)

27. Transfer of property from person A to person B, as trustee, naming persons A and C as income beneficiaries; remainder to D.

No reappraisal as long as A remains one of the present beneficiaries

Trust is irrevocable and A, though not sole beneficiary, is a present beneficiary of the trust.

R&T Code Section: 62(d)(1)

Board Rule: 462(h)(1)(A)

a. A dies.

Reappraisal

R&T Code Section: 61(f)

Board Rule: 462(h)

Exception is if C is spouse of A.

R&T Code Section: 63(b)

Board Rule: 462(k)(2)

b. A and C die — property to D.

Reappraisal

R&T Code Section: 61(f)

Board Rule: 462(h)(2)

28. Transfer of property from A and B as joint tenants to A and B as trustees and life beneficiaries of the property; remainder to C.

No Reappraisal

No transfer of a present interest or beneficial use.

R&T Code Section: 61(d)(1)

Board Rule: 462(h)(1)(A)

a. A and B die.

Reappraisal

Termination of precedent interest.

Right of possession vests in C.

R&T Code Section: 61(f)

Board Rule: 462(h)(2)

29. H and W execute a revocable trust, transfer property into it with H and W as trustees and life beneficiaries; remainder to C.

No Reappraisal

No transfer of present interest or beneficial use. Also trust is revocable.

R&T Code Section: 60 and 62(d)(1)(2)

Board Rule: 462(h)(1)(A) and

462(h)(1)(B)

b. Revocation by H and W.	No Reappraisal	No transfer of present interest or beneficial use (both still held by H and W). R&T Code Section: 60 and 62(d) Board Rule: 462(h)(2)(C)
c. H and W die — C takes property. (Ignore b above.)	Reappraisal	Termination of precedent interest (H and W). Right of possession vests in C. R&T Code Section: 61(f) Board Rule: 462(h)(2)
d. H dies, W revokes trust. (Ignore b and c above.)	No Reappraisal	No present interest transferred. R&T Code Section: 62(d) Board Rule: 462(h)(2)(C)
e. H dies, C dies, with W as sole heir of both. (Ignore b, c, and d above.)	No Reappraisal	C predeceases W, so present interest stays in W as life beneficiary. R&T Code Section: 60
<u>Life Estates</u>		
30. Person A grants title to person B reserving a life estate.	No Reappraisal	A retains present interest and beneficial use. R&T Code Section: 62(e) Board Rule: 462(1)(3)
a. A dies.	Reappraisal	Right of possession vests in B. R&T Code Section: 61(f) and 62(e) Board Rule: 462(1)(3) Except when B is spouse of A R&T Code Section: 63(b) Board Rule: 462(k)(1) and 462(1)(3)
31. Person A grants title to person B for life with remainder to C.	Reappraise when life estate granted	Transfer of present interest and beneficial use. R&T Code Section: 60 Board Rule: 462 (2nd paragraph) Except if B is spouse of A. R&T Code Section: 63 Board Rule: 462(k)

- a. B dies — C takes property.

Reappraise

Termination of precedent interest.
R&T Code Section: 61(f) and 62(e)
Board Rule: 462(1)(3)

Right to possession vests in C.
R&T Code Section: 60

Except if C is spouse of B.
R&T Code Section: 63(b)
Board Rule: 462(k)(1) and 462(1)(3)

Tenancy in Common

32. Two or more people acquire property as tenants in common.
33. A person holding title as a tenant in common transfers his interest to one of the other tenants-in-common.

Reappraise

Transfer is of fee title.
R&T Code Section: 60 and 61(e)
Board Rule: 462(a)

Reappraisal of the interest transferred

R&T Code Section: 61(e)
Board Rule: 462 (2nd paragraph)
Except when interspousal exclusion applies or when interest transferred is less than 5 percent.
R&T Code Section: 63 and 65(b)
Board Rule: 462(k) and 462(b)(6)

34. A, B, C, and D hold title as tenants in common with 25 percent interest each. D sells his interest to T.

Reappraise the interest transferred

"T" now has an undivided $\frac{1}{4}$ interest in common with A, B, and C.
R&T Code Section: 61(e)
Board Rule: 462(a)

Joint Tenancy

35. A and B acquire property as joint tenants.
36. Person A owning property in severalty adds person B as a joint tenant.

Reappraise

Transfer of fee title.
R&T Code Section: 60 and 61(d)
Board Rule: 462(a)

No Reappraisal

Person A is transferor and a joint tenant after the creation of the joint tenancy.
R&T Code Section: 62(f)
Board Rule: 462(b)(2)

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| a. A transfers his interest to C (B and C become tenants in common). | Reappraise 100 percent | Termination of an original transferor's interest in a joint tenancy excluded under Section 62(f), Board Rule 462(b)(2).
Held by original transferor before creation of joint tenancy.
R&T Code Section: 65(a)(1) |
| b. B transfers his interest back to A.
(Ignore a above.) | No Reappraisal | Termination of an interest of other than an original transferor in a joint tenancy excluded under Section 62(f), Board Rule 462(b)(2).

The interest reverts to an original transferor so no reappraisal is warranted.
R&T Code Section: 65(a)(2)
Board Rule: 462(b)(5) |
| 37. A and B own property as joint tenants. They purchased it together from another individual. B dies. | Reappraise the interest transferred 50 percent | Termination of a joint tenancy interest.
R&T Code Section: 61(d)
Board Rule: 462(a)

Section 65(a), Board Rule 462(b) has no bearing because the joint tenancy is not one excluded from reappraisal under Section 62(f), Board Rule 462(b)(2) |
| 38. A and B as joint tenants sell to H and W (husband and wife) as joint tenants.

a. H dies. | Reappraise

No Reappraisal | Not solely between spouses.
R&T Code Section: 60 and 61(d)

Interspousal exclusion.
R&T Code Section: 63(b) and 63(d)
Board Rule: 462(k)(2) and 462(k)(4) |
| 39. H and W own property as joint tenants and grant to H, W, S, and D as joint tenants.

a. H dies. | No Reappraisal

No Reappraisal | H and W are transferors and joint tenants.
R&T Code Section: 62(f)
Board Rule: 462(b)(2)

W is still an original transferor. |

b. W dies — property goes to S and D.	Reappraise	100 percent — termination of original transferor's interest. R&T Code Section: 65(a)(1)
c. S and D grant back to H and W (ignore a and b above).	No Reappraisal	Property reverts to original transferors. R&T Code Section: 65(a)(2) Board Rule: 462(b)(5)
40. A and B own property as joint tenants grant to A, B, C, and D all as joint tenants.	No Reappraisal	A and B are transferors and joint tenants after transfer. R&T Code Section: 62(f) Board Rule: 462(b)(2)
a. A dies.	No Reappraisal	Vests by operation of law in B, who is original transferor and still joint tenant. R&T Code Section: 65(a)(1) Board Rule: 462(b)(5)
b. A, B, C, and D grant to B, C, and D (ignore a above).	Reappraise 50 percent	Termination of original transferor's interest, but <u>not</u> "by operation of law." R&T Code Section: 65(a)(1)
c. B, C, and D grant to B (after either a or b).	No Reappraisal	The interests of C and D were other than original transferors' interests, and reverted to original transferor B. R&T Code Section: 65(a)(2) Board Rule: 462(b)(5)
41. A grants property to A and B as joint tenants.	No Reappraisal	A is transferor and joint tenant after transfer. R&T Code Section: 62(f) Board Rule: 462(b)(2)
a. A and B as joint tenants grant A and B as equal tenants in common.	Reappraise 50 percent	Same as a transfer from A to A and B as common tenants. R&T Code Section: 65(a)(1) Board Rule: 462 (2nd paragraph) and 462(a) There has been a transfer of 50 percent of A's interest in the property. (Section 62(a), Board Rule 462(b)(1) does not apply in this situation.)

Interspousal

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| 42. Transfer of property between spouses. | No Reappraisal | Change in ownership shall not include any interspousal transfers.
R&T Code Section: 63
Board Rule: 462(k) |
| 43. Transfer between ex-spouses in connection with a decree of dissolution of a marriage. | No Reappraisal | Excluded even though parties are ex-spouses.
R&T Code Section: 63(c)
Board Rule: 462(k)(3) |
| 44. Property is transferred to a trustee for the beneficial use of the spouse of the transferor. | No Reappraisal | Excluded even though transfer is to trustee and not spouse.
R&T Code Section: 63(a)
Board Rule: 462(k)(1) |

Other Transfers

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| 45. Transfer of fee title from one person to another. | Reappraisal of the interest transferred | R&T Code Section: 60
Board Rule: 460(a) |
| 46. Any transfer to an existing assessee to perfect or clear title by deed. | No Reappraisal | No present interest transferred.
R&T Code Section: 60 and 62(b)
Board Rule: 462(1)(1)(A) |
| 47. Creation or termination of a security interest without right of possession (trust deed or mortgage). | No Reappraisal | R&T Code Section: 62(c)(1)
Board Rule: 462(1)(1)(B) |
| 48. Substitution of trustee under security or trust instrument. | No Reappraisal | R&T Code Section: 62(c)(2)
Board Rule: 462(1)(2) |
| 49. A and B are co-owners of a piece of property. The property is then partitioned and A and B then each have equal value parcels owned in severalty. | No Reappraisal | This is a change in the method of holding title with no change in proportional interests (based on value).
R&T Code Section: 62(a)
Board Rule: 462(b)(1) |
| 50. A and B are co-owners; property is partitioned unequally. (Value of B's portion differs from value of A's portion.) | Reappraise 50 percent | A receives B's 50 percent interest in one parcel, and B receives A's 50 percent interest in the other parcel.
R&T Code Section: 61(e) and 65(b)
Board Rule: 462 (2nd paragraph) and 462(a) (Section 62(a), Board Rule 462(b)(1) does not apply with unequal partitions.) |

51. Title to a property transfers by foreclosure sale with no further right of redemption.

52. Sale at auction of tax-deeded property.

53. Change of name.

54. Transfer of bare legal title to person, corporation, or other legal entity.

55. R purchases freehold estate from Y.

Reappraisal

Reappraisal

No Reappraisal

No Reappraisal

Reappraise

Fee transfer.

R&T Code Section: 60 and 67

Board Rule: 462(f)(1) and 462(f)(2)

Fee transfer.

R&T Code Section: 60 and 67

Board Rule: 462(g)

No interest transferred.

Board Rule: 462 (2nd paragraph)

No transfer of equitable title.

Board Rule: 462(1)(1)

A purchase is an ownership change.

R&T Code Section: 67 and 65

Board Rule: 462 (2nd paragraph)